

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-015102

05/25/2011

HONORABLE EILEEN S. WILLETT

CLERK OF THE COURT
J. Rutledge
Deputy

FORT MCDOWELL YAVAPAI NATION, et al. LEO R BEUS

v.

STEPTOE & JOHNSON L L P, et al. GARY L BIRNBAUM

JOHN DANIEL CAMPBELL
SCOT L CLAUS
PEARLINE KIRK
KRISTINA PYWOWARCZUK
DREW RYCE
509 CENTRAL DR
COULEE DAM WA 99116

ORAL ARGUMENT

Courtroom CCB-401

9:33 a.m. This is the time set for Oral Argument. Plaintiffs are represented by counsel, Linnette R. Flanigan and Aaron D. Crane. Defendants Steptoe & Johnson LLP, White, and Guerin are represented by counsel, Gary L. Birnbaum and Scot L. Claus. Defendants Bloom, Schnepf, and Ringel Valuations Services are represented by counsel, Kristina L. Pywowarczuk.

Court Reporter, Karen Bolton, is present.

Argument is presented regarding the following documents:

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- Drew Ryce's Motion to Dismiss All Claims Against Ryce and Kirk (Statute of Limitations), filed February 21, 2011;
- Plaintiffs' Motion to Dismiss Cross-Complaint, filed by Drew Ryce and "Joined" by Pearline Kirk, filed March 1, 2011; and
- Drew Ryce's Objection to Oral Argument; Objection to Summary Disposition, filed May 18, 2011

IT IS ORDERED taking this matter under advisement.

9:39 a.m. Matter concludes.

LATER:

The Court has considered Defendant Drew Ryce's *Motion to Dismiss All Claims Against Ryce and Kirk (Statute of Limitations)*, filed February 21, 2011; Defendant Kirk's Joinder, filed February 21, 2011; Plaintiffs' Response, filed March 29, 2011; Defendant Ryce's Reply, filed April 7, 2011; *Plaintiffs' Motion to Dismiss Cross-Complaint Filed by Drew Ryce and "Joined" by Pearline Kirk*, filed March 1, 2011; Defendant Ryce's Opposition to Plaintiffs Motion, filed March 9, 2011; Plaintiffs' Reply, filed March 18, 2011; Defendant/Cross-Complainant Drew Ryce's *Objection to Oral Argument; Objection to Summary Disposition*, filed May 18, 2011, oral argument of counsel, authorities cited, and information presented.

Taking all material allegations of the complaint as true and reading in a light most favorable to the Plaintiffs, the Court finds that Plaintiffs' claims are not time barred by the Statute of Limitations. The causes of action accrued upon default by the borrowers on each loan. Based upon the allegations set forth, the Complaint was timely filed.

IT IS ORDERED denying Defendant Ryce and Kirk's Motion to Dismiss, filed February 21, 2011.

With regard to Plaintiffs' Motion to Dismiss Defendant Ryce and Kirk's Cross-Complaint, the Court finds that Plaintiffs are not named in the Cross-Complaint. Nor have the named Cross-Defendants been served. Defense Counsel does not represent Cross-Defendants.

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IT IS ORDERED denying the Motion to Dismiss the Cross-Complaint as to Plaintiffs. Were the Cross-Complaint to be filed against Plaintiffs, which it is not, the Court would order Cross-Plaintiffs to file an Amended Complaint addressing the deficiencies noted in Plaintiffs' Motion. Such an Order is not necessary because the Court has found that Cross-Plaintiffs have not sued Plaintiffs.

The Court has declined to summarily dispose of the Motions. The Objection to oral argument is overruled, however. The Objection to Summary Disposition of the referenced Motions above is sustained.

**HONORABLE EILEEN S. WILLETT
MARICOPA COUNTY SUPERIOR COURT
CENTRAL COURT BUILDING
201 W. JEFFERSON
4TH FLOOR, COURTROOM 401
PHOENIX, AZ 85003
602-506-3343**

ALERT: eFiling through AZTurboCourt.gov is mandatory in civil cases for attorney-filed documents effective May 1, 2011. See Arizona Supreme Court Administrative Orders 2010-117 and 2011-010. The Court may impose sanctions against counsel to ensure compliance with this requirement after May 1, 2011.